HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

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WRIT PETITION No.9966 of 2007

Between:

Telangana Mala Mahanadu

… Petitioner

AND

Union of India
and others.

… Respondents

; O R D E R :

Counsel for the petitioner : Shri B.S.V.Prakash Kumar

Dated: 5th June, 2007

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Per C.V.NAGARJUNA REDDY, J.

One Addanki Dayakar claiming to be the President of a society called Telangana Mala Mahanadu, evidently registered on 24.10.2006 under the Andhra Pradesh Societies Registration Act 2001, filed this petition for declaring the proceedings dated 13.3.2006 issued by Ministry of Social Justice and Empowerment, Government of India, respondent No.1, constituting a commission to examine the issue of sub-categorization of Scheduled Castes in Andhra Pradesh, as null and void.

In his affidavit Sri Addanki Dayakar has claimed that he hails from Mala community and that he represents the grievances of Telangana Malas. He has narrated the events leading to the enactment of Andhra Pradesh Scheduled Castes (Rationalisation of Reservations) Act 2000 (for short 'the Act') under which various castes included in the list of Scheduled Castes prepared under Article 341(1) of the Constitution of India were categorized into four groups A, B, C and D. He has further averred that the said categorization was challenged before this Court and the same was upheld by a Larger Bench of this Court; that the Supreme Court in **E.V.Chinnaiah Vs. State of Andhra Pradesh**[1] reversed the said judgment and declared the provisions of the Act as unconstitutional; that undeterred by the declaration of law by the Supreme Court, the Government of Andhra Pradesh initiated further steps to make classification of the Scheduled Castes within the State of Andhra Pradesh and that in pursuance of the resolution passed by the Andhra Pradesh Legislative Assembly on

10.12.2004, respondent No.1 vide proceedings dated 15.11.2006 appointed a Commission called National Commission to examine the issue of sub-categorization of Scheduled Castes in Andhra Pradesh. According to the petitioner Article 338 of the Constitution of India provided for constitution of National Commission for Scheduled Castes and that while such Commission is already functioning, the State Government has constituted another Commission, which is legally impermissible apart from being contrary to the judgment of the Supreme Court in **E.V.Chinnaiah (1 supra)**.

The learned counsel reiterated the pleas contained in the affidavit filed in support of the writ petition. He submitted that when the Supreme Court has struck down the Act which provided for sub-categorization of the Scheduled Castes, there is no justification to resume that process once again and that in any event there is no need for constitution of another National Commission when the National Commission for Scheduled Castes is already constituted and functioning effectively.

We have carefully considered the submissions of the learned counsel, but have not felt persuaded to accept the same. In the first place, the petitioner has failed to satisfy its locus to maintain the writ petition. Except filing a copy of the certificate evidencing registration of the petitioner as a society under the Andhra Pradesh Societies Registration Act 2001, the petitioner has not filed its Memorandum of Association containing the aims and objects for which the society is formed. No details as to the strength of the society and the particulars of its members have been furnished by the petitioner. The petitioner has neither claimed that he is authorized by the society to file the writ

petition nor he has produced any evidence in support thereof. No document is produced to show that the deponent of the affidavit, Sri Addanki Dayakar is the President of the petitioner society. His claim that he represents the grievance of Telangana Malas is not supported by any material on record. We are, therefore, of the view that neither the petitioner nor its self-styled President has been able to establish their credentials to represent the interests of the Mala community and it does not have the locus to maintain the writ petition.

Even otherwise we are satisfied that there is absolutely no merit in any of the contentions raised in the writ petition. From the material available on record it is evident that after the Constitution Bench of the Supreme Court struck down the Act in **E.V.Chinnaiah (1 supra)**, the Andhra Pradesh State Legislative Assembly passed resolution on 10.12.2004 by which it recommended to the Government of India to take up the issue relating to categorization of the Schedules Castes in the State of Andhra Pradesh. On 13.3.2006, the Deputy Secretary (Cabinet) addressed a letter to the Secretary, Ministry of Social Justice and Empowerment, New Delhi wherein it is mentioned that the Cabinet Committee on Political Affairs, in its meeting held on 9.3.2006 considered the note dated 16.1.2006 from the Ministry of Social Justice and Empowerment (Samajik Nyaya Aur Adhikarita Mantralaya) on the issue of sub-categorization of Scheduled Castes in Andhra Pradesh and decided that a retired Judge of the Supreme Court be appointed to examine the matter in all its aspects. In pursuance of that communication, the Ministry of Social Justice and Empowerment, Government of India vide its resolution dated 15.11.2006 constituted a Commission under a retired Judge of Supreme Court to examine the issue arising out of the judgment of the Supreme Court relating to sub-

categorization of Scheduled Castes in Andhra Pradesh into four groups for the purpose of reservations in all its aspects. Clause-7 of the resolution, which contains the terms of reference of the Commission reads as follows:

> " 7. The terms of the Commission are as under:-
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> a) To examine the various facets of the demand for sub-categorization of Scheduled Castes in Andhra Pradesh subsequent to the judgment of the Supreme Court of India in the case of E.V.Chinnaiah Vs. State of Andra Pradesh & Others.
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> b) To examine the constitutional, statutory and legal ramifications of the demand for sub-categorization of Scheduled Castes.
>
> c) To make recommendations on the future course of action, clearly specifying the grounds and the criteria on which these recommendations are based.

A reading of the terms of reference shows that the Commission has been constituted to examine the various facets including the constitutional, statutory and legal implications of the demand for sub-categorization of Scheduled Castes in the light of the judgment of the Supreme Court in **E.V.Chinnaiah (1 supra)** and also to make recommendations on the future course of action in this regard.

In our opinion, the appointment of a Commission is neither in conflict with the judgment of the Supreme Court in **E.V.Chinnaiah (1 supra)** nor it is contrary to the provisions of Article 338 of the Constitution of India. In **E.V.Chinnaiah** the Supreme Court struck down the Act mainly on the ground that the sub-categorization was contrary to the presidential notification issued under Article 341 of the Constitution. The Supreme Court held that the Parliament alone is vested with the power to make law to include in or exclude from the list of Scheduled Castes specified in the notification issued by the

President under Article 341(1) of the Constitution and the State Legislature is denuded of the power to tinker with the list notified by the President of India.

The main purposes of appointing the Commission, as already noted hereinabove, is to examine the constitutional, statutory and legal ramifications of the demand for sub-categorization of the Scheduled Castes and to make recommendations on the future course of action. Therefore, the impugned resolution can not be struck down on the ground that it is contrary to the judgment of the Supreme Court in **E.V.Chinnaiah.**

The petitioner's plea that the appointment of Commission offends the provisions of Article 338 of the Constitution is also meritless and is liable to be rejected. While the National Commission constituted under Article 338 of the Constitution is a body envisaged by the Constitution. Its duties and functions are specified in Article 338 (5) (a) to (f). A careful reading of the duties entrusted to the National Commission for Scheduled Castes enumerated in the said provision reveals that they relate to various matters concerning the safeguards to be provided for the Scheduled Castes, the specific complaints with respect to deprivation of their rights, advising on the planning process of socio-economic development of Scheduled Castes etc. Whereas the Commission, which has been appointed vide resolution dated 15.11.2006 of respondent No.1 is for a specific purpose pertaining to sub-categorization of Scheduled Castes in the State of Andhra Pradesh. There is no overlapping in the area of operation of the two Commissions. Therefore, resolution impugned in the writ petition cannot be struck down on the ground that it is ultra vires the provision of Article 338 of the Constitution. At any rate, recommendations if any,

made by the said Commission are meant only for the purpose of deciding the future course of action. The petitioner failed to show that constitution of such a Commission affects interests of any section of the Scheduled Castes. In our view, the apprehension expressed by the petitioner in the writ petition is wholly baseless and the writ petition is liable to be dismissed. Ordered accordingly.

C.V. NAGARJUNA REDDY, J

G.S.SINGHVI, CJ

Date: 05 -06 -2007.
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[1] (2005) 1 SCC394